



Town and Country Planning (Scotland) Act 1947

1947 CHAPTER 53

PART II

PLANNING AND CONTROL OF DEVELOPMENT, &C.

Permission to develop land.

10 Obligation to obtain permission for development.

- (1) Subject to the provisions of this section and to the following provisions of this Act, permission shall be required under this Part of this Act in respect of any development of land which is carried out after the appointed day.
- (2) In this Act, except where the context otherwise requires, the expression "development" means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land:

Provided that the following operations or uses of land shall not be deemed for the purposes of this Act to involve development of the land, that is to say—

- (a) the carrying out of works for the maintenance, improvement or other alteration of any building being works which affect only the interior of the building or which do not materially affect the external appearance of the building;
- (b) the carrying out by a local highway authority of any works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road;
- (c) the carrying out by any local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;

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- (d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;
 - (e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;
 - (f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use thereof for any other purpose of the same class.
- (3) For the avoidance of doubt it is hereby declared that for the purposes of this section—
- (a) the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part thereof which is so used;
 - (b) the deposit of refuse or waste materials on land involves a material change in the use thereof, notwithstanding that the land is comprised in a site already used for that purpose, if the superficial area or the height of the deposit is thereby extended:
- Provided that nothing in paragraph (b) of this subsection shall be deemed to require permission in respect of the deposit of refuse or waste materials on a site already used for that purpose if the height of the deposit does not exceed the level of the land adjoining such site, and the superficial area of the deposit is not thereby extended.
- (4) Without prejudice to the provisions of any regulations made under the provisions of this Act relating to the control of advertisements, the use for the display of advertisements of any external part of a building which is not normally used for that purpose shall be treated for the purposes of this section as involving a material change in the use of that part of the building.
- (5) Notwithstanding anything in this section, planning permission shall not be required—
- (a) in the case of land which, on the appointed day, is being used temporarily for a purpose other than the purpose for which it is normally used, in respect of the resumption of the use of the land for the last-mentioned purpose;
 - (b) in the case of land which, on the appointed day, is normally used for one purpose and is also used on occasions, whether at regular intervals or not, for any other purpose, in respect of the use of the land for that other purpose on similar occasions after the appointed day;
 - (c) in the case of land which on the appointed day is unoccupied, in respect of the use of the land for : the purpose for which it was last used:

Provided that—

- (i) in determining for the purposes of paragraph (a) of this subsection the purposes for which land was normally used and in determining for the purposes of paragraph (c) of this subsection the purposes for which land was last used, no account shall be taken of any use of the land begun in contravention of previous planning control within the meaning of section seventy-two of this Act;
- (ii) paragraph (c) of this subsection shall not apply to land which was unoccupied on the seventh day of January, nineteen hundred and thirty-seven, and has not been occupied since that date.

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11 Development orders.

- (1) The Secretary of State shall by order provide for the grant of planning permission, and such permission may be granted—
 - (a) in the case of any development specified in any such order, or in the case of development of any class so specified, by that order itself;
 - (b) in any other case, by the local planning authority (or, in the cases hereinafter provided, by the Secretary of State) on an application in that behalf made to the local planning authority in accordance with the provisions of the order.
- (2) An order under subsection (1) of this section (hereinafter called a "development order") may be made either as a general order applicable (subject to such exceptions as may be specified therein) to all land, or as a special order applicable only to such land as may be so specified, and the permission granted by any such order may be granted either unconditionally or subject to such conditions or limitations as may be so specified.
- (3) Without prejudice to the generality of the last foregoing subsection, a development order which grants permission for any development may—
 - (a) where permission is thereby granted for the erection, extension or alteration of any buildings, require the approval of the local planning authority to be obtained with respect to the design or external appearance thereof;
 - (b) where permission is thereby granted for development of any specified class, enable the Secretary of State or the local planning authority to direct that that permission shall not apply either in relation to development in any particular area or in relation to any particular development.
- (4) For the purpose of enabling development to be carried out in accordance with planning permission, or otherwise for the purpose of promoting proper development in accordance with the development plan, a development order may direct that any enactment passed before the passing of this Act, or any regulations, orders or bye-laws made (whether before or after the passing of this Act) under any such enactment shall not apply to any development specified in the order or shall apply thereto subject to any such modifications as may be so specified.
- (5) Every development order shall be laid before Parliament immediately after it is made, and if either House within the period of forty days after the order is so laid before it resolves that the order be annulled, the order shall thereupon cease to have effect, but without prejudice to the validity of anything previously done thereunder or to the making of a new order:

Provided that, without prejudice to the foregoing provision, where any such order makes provision for excluding or modifying any enactment contained in a public general Act (other than any of the excepted enactments specified in the Second Schedule to this Act) the order shall be of no effect until that provision is approved by resolution of each House of Parliament.
- (6) In reckoning for the purpose of the last foregoing subsection any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

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12 Applications to local planning authorities for planning permission.

- (1) Subject to the provisions of this and the next following section, where application is made to the local planning authority for planning permission, that authority may grant permission either unconditionally or subject to such conditions as they think fit, or may refuse permission; and in dealing with any such application the local planning authority shall have regard to the provisions of the development plan, so far as material thereto, and to any other material considerations.
- (2) Without prejudice to the generality of the foregoing subsection, conditions may be imposed on the grant of planning permission thereunder—
 - (a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the local planning authority to be expedient for the purposes of, or in connection with, the development authorised by the permission; .
 - (b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the expiration of a specified period, and the carrying out of any works required for the re-instatement of land at the expiration of that period;

and any planning permission granted subject to any such condition as is mentioned in paragraph (b) of this subsection is in this Act referred to as planning permission granted for a limited period only:

Provided that conditions may not be imposed by a local planning authority under paragraph (a) of this subsection for regulating the development or use of any land within the area of another local planning authority except with the consent of that authority.

- (3) Provision may be made by a development order for regulating the manner in which applications for planning permission are to be dealt with by local planning authorities and in particular—
 - (a) for enabling the Secretary of State (or, in the case of development affecting trunk roads, the Minister of Transport) to give directions restricting the grant of planning permission by the local planning authority, during such period as may be specified in the directions, in respect of any such development, or in respect of development of any such class, as may be so specified;
 - (b) for authorising the local planning authority, in such cases and subject to such conditions as may be prescribed by the order or by directions given by the Secretary of State thereunder, to grant planning permission for development which does not accord with the provisions of the development plan ;
 - (c) for requiring the local planning authority, before granting or refusing planning permission, to consult with such authorities or persons as may be prescribed by the order or by directions given by the Secretary of State thereunder;
 - (d) for requiring the local planning authority to give to any applicant for planning permission, within such time as may be prescribed by the order, such notice as may be so prescribed as to the manner in which his application has been dealt with;
 - (e) for requiring the local planning authority to furnish to the Secretary of State and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to applications for planning permission made to them, including information as to the manner in which any such application has been dealt with.

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- (4) Without prejudice to any provisions included in the development order by virtue of the last foregoing subsection for restricting the grant of planning permission by local planning authorities, an application to the local planning authority for permission to develop land by the erection thereon of an industrial building of any class prescribed by regulations made for the purposes of this subsection by the Board of Trade shall be of no effect unless it is certified by the Board that the development in question can be carried out consistently with the proper distribution of industry, and a copy of the certificate is furnished to the local planning authority together with the application:

Provided that—

- (a) no such certificate as aforesaid shall be required in respect of the erection of any industrial building if the building does not cover an area of more than five thousand square feet; and
- (b) the regulations made by the Board for the purposes of this subsection may direct that no such certificate as aforesaid shall be required in respect of the erection, in any area prescribed by or under the regulations, of industrial buildings of any such class as may be so prescribed. ,
- (5) Every local planning authority shall keep, in such manner as may be prescribed by the development order, a register containing such information as may be so prescribed with respect to applications for planning permission made to that authority, including information as to the manner in which such applications have been dealt with; and every such register shall be available for inspection by the public at all reasonable hours.

13 Reference of applications to Secretary of State.

- (1) The Secretary of State may give directions to any local planning authority, or to local planning authorities generally, requiring that any application for planning permission, or all such applications of any class specified in the directions, shall be referred to the Secretary of State instead of being dealt with by the local planning authority, and any such application shall be so referred accordingly.
- (2) Where an application for planning permission is referred to the Secretary of State under this section, the provisions of subsection (1) and of subsection (2) other than the proviso thereto of the last foregoing section shall apply, subject to any necessary modifications, in relation to the determination of the application by the Secretary of State as they apply in relation to the determination of such an application by the local planning authority:

Provided that before determining any such application the Secretary of State shall, if either the applicant or the local planning authority so desire, afford to them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

- (3) The decision of the Secretary of State on any application referred to him under this section shall be final.

14 Appeals to the Secretary of State.

- (1) Where application is made to a local planning authority for planning permission, or for any approval of that authority required under a development order, and that permission or approval is refused by that authority, or is granted by them subject to conditions,

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then, if the applicant is aggrieved by their decision, he may, by notice served within the time (not being less than twenty-eight days from the receipt of notification of their decision) and in the manner prescribed by the development order, appeal to the Secretary of State:

Provided that the Secretary of State shall not be required to entertain an appeal under this subsection in respect of the determination of an application for planning permission if it appears to him that that planning permission could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the provisions of section twelve of this Act and of the development order, and to any directions given under that order.

- (2) Where an appeal is brought under this section from a decision of the local planning authority the Secretary of State may allow or dismiss the appeal or may reverse or vary any part of the decision of the local planning authority, whether or not the appeal relates to that part, and deal with the application as if it had been made to him in the first instance; and the provisions of the last foregoing section shall apply, subject to any necessary modifications, in relation to the determination of an application by the Secretary of State on appeal under this section as they apply in relation to the determination by the Secretary of State of an application referred to him under that section:

Provided that where the Secretary of State proposes to reverse or vary any part of the decision of the local planning authority to which the appeal does not relate, he shall give notice of his intention to the local planning authority and to the applicant and shall afford to them an opportunity to make representations in regard thereto.

- (3) Unless within such period as may be prescribed by the development order, or within such extended period as may at any time be agreed upon in writing between the applicant and the local planning authority, the local planning authority either—
- (a) give notice to the applicant of their decision on any application made to them for planning permission, or for any approval required under a development order, or
 - (b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given by him under the last foregoing section,

the provisions of subsection (1) of this section shall apply in relation to the application as if the permission or approval to which it relates had been refused by the local planning authority, and as if notification of their decision had been received by the applicant at the expiration of the period prescribed by the development order or the extended period agreed upon as aforesaid, as the case may be.

- (4) Provision may be made by a development order for securing that in the case of decisions by a local planning authority of such classes as may be prescribed by the order (being decisions relating to the design or external appearance of buildings or other similar matters) any appeal under this section shall lie to an independent tribunal established in accordance with the provisions of that order instead of to the Secretary of State; and in relation to any such appeal the foregoing provisions of this section shall apply, subject to such adaptations and modifications as may be specified in the order, as they apply in relation to appeals to the Secretary of State thereunder.

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15 Applications to determine whether planning permission required.

- (1) If any person who proposes to carry out any operations on land or make any change in the use of land wishes to have it determined whether those operations or the making of that change in the use of land would constitute or involve development of the land within the meaning of this Act, he may either as part of an application for permission to carry out those operations or to institute that use, or without any such application, apply to the local planning authority to determine that question.
- (2) The foregoing provisions of this Part of this Act shall, subject to any necessary modifications, apply in relation to any application under this section and to the determination thereof as they apply in relation to applications for planning permission and to the determination of such applications:

Provided that where it is decided by the Secretary of State under any of the said provisions that any operations or use to which an application under this section relates would constitute or involve development, that decision shall not be final for the purposes of any appeal to the sheriff under the provisions of this Part of this Act relating to the enforcement of planning control, in relation to those Operations or that use.

16 Supplementary provisions as to grant of planning permission.

- (1) The power to grant planning permission shall include power to grant permission for the retention on land of any buildings or works constructed, or carried out thereon before the date of the application, or for the continuance of any use of land instituted before that date (whether without planning permission or in accordance with such permission granted for a limited period only); and references in this Part of this Act to planning permission and to applications for such permission shall be construed accordingly.
- (2) Any such permission as is mentioned in the foregoing subsection may be granted so as to take effect from the date on which the buildings or works were constructed or carried out, or the use was instituted, or from the expiration of the said period, as the case may be.
- (3) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used; and if no purpose is so specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.
- (4) Where planning permission is granted for any development, then, except as may be otherwise provided by the permission, the grant of permission shall enure for the benefit of the land to which the permission relates and of all persons for the time being interested therein, but without prejudice to the provisions of this Part of this Act with respect to the revocation and modification of planning permission.
- (5) Where planning permission is granted for a limited period only, nothing in this Part of this Act shall be construed as requiring planning permission to be obtained for the resumption, at the expiration of that period, of the use of the land for the purpose for which it was normally used before the permission was granted:

Provided that in determining for the purposes of this subsection the purposes for which land was normally used before the grant of permission, no account shall be taken of any use of the land begun in contravention of the provisions of this Part of this Act, or

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begun before the appointed day in contravention of previous planning control within the meaning of section seventy-two of this Act.

17 Obligation to purchase land on refusal of planning permission in certain cases.

(1) Where planning permission is refused, whether by the local planning authority or by the Secretary of State, or is granted by that, authority or by the Secretary of State subject to conditions, then if any owner or lessee of the land concerned claims—

- (a) that the land has become incapable of reasonably beneficial use in its existing state; and
- (b) in a case where planning, permission was granted as aforesaid subject to conditions, that the land cannot be rendered capable of reasonably beneficial used by the carrying out of the permitted development in accordance with those conditions;
- (c) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been or is deemed to be granted or for which the local planning authority or the Secretary of State have undertaken to grant such permission,

he may, within the time and in the manner prescribed by regulations made under this Act, serve on the local planning authority in whose district the land is situated a notice (hereinafter referred to as a " purchase notice ") requiring that authority to purchase his interest in the land in accordance with the provisions of this section.

(2) Where a purchase notice is served on any local planning authority under this section that authority shall forthwith transmit a copy of the notice to the Secretary of State, and subject to the following provisions of this section the Secretary of State shall, if he is satisfied that the conditions specified in the foregoing subsection are fulfilled, confirm the notice, and thereupon the authority shall be deemed to be authorised to acquire the interest of that person compulsorily in accordance with the provisions of Part III of this Act, and to have served a notice to treat in respect thereof on such date as the Secretary of State may direct;

Provided that—

- (a) if it appears to the Secretary of State to be expedient so to do, he may, in lieu of confirming the purchase notice, grant planning permission for the development in respect of which the application was made or, where planning permission for that development was granted subject to conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of that development;
- (b) if it appears to the Secretary of State that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other development for which permission ought to be granted, he may, in lieu of confirming the notice, or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that such permission shall be so granted in the event of an application being made in that behalf;
- (c) if it appears to the Secretary of State to be expedient that another local authority should acquire the interest for the purpose of any of their functions, he may, if he confirms the notice, modify it either in relation to the whole or in relation to any part of the land to which it relates by substituting that other authority for the local planning authority on whom the notice is served, and

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in any such case the foregoing provisions of this subsection shall have effect accordingly.

- (3) If within the period of six months from the date on which a purchase notice is served under this section the Secretary of State has neither confirmed the notice nor taken any such other action as is mentioned in paragraph (a) or paragraph (b) of the proviso to the last foregoing subsection, nor notified the owner or lessee, as the case may be, by whom the notice was served that he does not propose to confirm the notice, the notice shall be deemed to be confirmed at the expiration of that period, and the authority on whom the notice was served shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the provisions of Part III of this Act, and to have served notice to treat in respect thereof at the expiration of the said period.
- (4) The power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of this section.
- (5) Before confirming a purchase notice, or taking any other action in lieu thereof, under this section, the Secretary of State shall give notice of his proposed action—
 - (a) to the person by whom the notice was served;
 - (b) to the local planning authority, on whom the notice was served; and
 - (c) to any other local authority whom the Secretary of State proposes, under subsection (2) of this section, to substitute for the said local planning authority;

and if within the period prescribed by the notice under this subsection (not being less than twenty-eight days from the service thereof) any person or authority on whom that notice is served so requires, the Secretary of State shall, before confirming the purchase notice or taking any such other action as aforesaid, afford to those persons and authorities an opportunity of appearing before and being heard by a person appointed by him for the purpose.

18 Compensation for refusal of planning permission in certain cases.

- (1) Where, on application for planning permission to carry out development of any class specified in Part II of the Third Schedule to this Act, permission for that development is refused by the Secretary of State, either on appeal or on the reference of the application to him for determination, or is so granted by the Secretary of State subject to conditions, then if, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that the value of the interest of any person in the land is less than it would have been if the permission had been granted, or had been granted unconditionally, as the case may be, the local planning authority shall pay to that person compensation (to be assessed in accordance with the provisions of the Fourth Schedule to this Act) equal to the difference.
- (2) In determining for the purposes of the foregoing subsection whether and to what extent the value of any interest in land is less than it would have been if the permission had been granted or had been granted unconditionally, as the case may be, it shall be assumed that any subsequent application for the like permission would be determined in the same way:

Provided that if, on the refusal of planning permission for the development in respect of which the application is made, the Secretary of State undertakes to grant planning

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permission for any other development of the land in the event of an application being made in that behalf, regard shall be had to that undertaking in determining the matters aforesaid.

- (3) Where a purchase notice served under the last foregoing section in respect of any interest in land does not take effect, or does not take effect in relation to any part of the land, by reason of any such direction as is mentioned in paragraph (b) of the proviso to subsection (2) of that section, then if it is shown, on a claim made to the local planning authority, within the time and in the manner prescribed by regulations under this Act that the permitted development value of that interest or, as the case may be, of that interest so far as it relates to that part of the land, is less than its compulsory purchase value, the local planning authority shall pay to the person entitled to that interest compensation (to be assessed in accordance with the provisions of the Fourth Schedule to this Act) equal to the difference.
- (4) For the purposes of the last foregoing subsection the expression " permitted development value," in relation to an interest in land in respect of which any such direction as is mentioned in that subsection has been given, means the value of that interest calculated with regard to the direction and to any determination of the Central Land Board under subsection (4) of section sixty-seven of this Act, but on the assumption that no permission would be granted under this Part of this Act otherwise than in accordance with the direction; and the expression " compulsory purchase value," in relation to any such interest means the value of that interest as it would be assessed in accordance with the provisions of section forty-eight of this Act for the purpose of ascertaining the compensation payable on a purchase thereof in pursuance of the purchase notice.
- (5) Where any such permission as is mentioned in subsection (1) of this section is granted by the Secretary of State subject to conditions, or where any permission required to be granted by any such direction as is mentioned in subsection (3) of this section would be so granted subject to conditions, being in either case conditions for regulating the design or external appearance of buildings, or the size or height of buildings, or, in the case of permission to be granted in accordance with any such direction as aforesaid, for regulating the number of buildings to be erected on the land, then if it appears to the Secretary of State that it is reasonable, having regard to the local circumstances, so to do, he may direct that those conditions shall be disregarded, either altogether, or to such extent as may be specified in the direction, in assessing the compensation (if any) payable under the said subsection (1) or under the said subsection (3), as the case may be.
- (6) Except as provided by subsection (3) of this section, no compensation shall be payable under this section in respect of any interest in land in respect of which a purchase notice is served under section seventeen of this Act.

19 Revocation and modification of planning permission.

- (1) Subject to the provisions of this section, if it appears to the local planning authority that it is expedient, having regard to the development plan and to any other material considerations, that any planning permission granted on an application made in that behalf should be revoked or modified, they may by order revoke or modify the permission to such extent as appears to them to be expedient as aforesaid:

Provided that no such order shall take effect unless it is confirmed by the Secretary of State, and the Secretary of State may confirm any order submitted to him for the

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purpose either without modification or subject to such modifications as he considers expedient.

- (2) Where a local planning authority submit an order to the Secretary of State for his confirmation under this section, that authority shall serve notice on the owner, on the lessee and on the occupier of the land affected, and on any other person who in their opinion will be affected by the order; and if within such period as may be prescribed in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State shall, before confirming the order, afford to him, and to the local planning authority, an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3) The power conferred by this section to revoke or modify planning permission may be exercised—
 - (a) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed ;
 - (b) where the permission relates to a change of the use of any land, at any time before the change has taken place:

Provided that the revocation or modification of permission for 'the carrying out of building or other operations shall not 'affect so much of those operations as has been carried out before the date on which the order was confirmed as aforesaid.

20 Supplementary provisions as to revocation and modification of planning permission.

- (1) Where planning permission is revoked or modified by an order made under the last foregoing section, then if, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that any person interested in the land concerned has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification, or has otherwise sustained loss or damage which is directly attributable to the revocation or modification, that authority shall pay to that person compensation in respect of that expenditure, loss or damage:

Provided that unless either—

- (a) any sum has been paid under Part VI of this Act by way of development charge in respect of the development to which the permission relates; or
- (b) no such charge is payable in respect of that development by virtue of any of the provisions of Part VII of this Act;

no compensation shall be payable under this subsection in respect of loss or damage consisting of the depreciation in value of any interest in the land by virtue of the revocation or modification.

- (2) For the purposes of this section any expenditure incurred in the preparation of plans for the purposes of any work or upon other similar matters preparatory thereto shall be deemed to be included in the expenditure incurred in carrying out that work, but except as aforesaid no compensation shall be paid under this section in respect of any work carried out before the grant of the planning permission which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of the depreciation in value of an interest in land) arising out of anything done or omitted to be done before the grant of that permission.

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- (3) Where planning permission granted by a development order has been withdrawn, whether by the revocation or amendment of the order or by the issue of directions under powers in that behalf conferred by the order, then if, on an application made in that behalf, planning permission is refused or is granted subject to conditions other than those previously imposed by the development order, the foregoing provisions of this section shall apply as if the planning permission granted by the development order had been granted by the local planning authority and had been revoked or modified by an order under the last foregoing section.
- (4) The provisions of section seventeen of this Act shall apply in relation to an order made under the last foregoing section revoking planning permission or modifying any such permission by the imposition of conditions, as they apply in relation to the refusal of an application for such permission or the grant of such an application subject to conditions, and in any such case the said section seventeen shall have effect subject to the following modifications:—
- (a) in paragraph (b) of subsection (1), for the words "in a case where planning permission was granted as aforesaid subject to conditions " there shall be substituted the words " in a case where the planning permission was modified by the imposition of conditions "; and
 - (b) for paragraph (a) of the, proviso to subsection (2) there shall be substituted the following paragraph:—
 - “(a) if it appears to the Secretary of State to be expedient so to do he may, in lieu of confirming the purchase notice, cancel the order revoking the planning permission or, where the order modified the permission by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the development in respect of which the permission was granted”;
- (5) Where the planning permission which is revoked or modified by an order under the last foregoing section is permission of any such class as is mentioned in subsection (1) of section eighteen of this Act, the provisions of that section shall apply as if for references therein to the refusal of the permission or the imposition of conditions on the grant thereof there were substituted references to the revocation of permission or the modification thereof by the imposition of conditions, and subsection (1) of that section shall have effect as if for the words " if the permission had been granted or had been granted unconditionally " there were substituted the words " if the permission had not been revoked or had not been modified. "
- (6) Where, by virtue of the foregoing provisions of this section, compensation is payable in respect of expenditure incurred in carrying out any work on land, then if a purchase notice is served under section seventeen of this Act in respect of any interest in that land, or a claim for compensation is made in respect of any such interest under subsection (1) of section eighteen of this Act, any compensation payable in respect of the acquisition of that interest under the said section seventeen or, as the case may be, any compensation payable in respect of that interest under the said section eighteen, shall be reduced by an amount equal to the value of the works in respect of which compensation is payable under this section.
- (7) Any compensation payable under this section in respect of loss or damage consisting of depreciation in value of an interest in land shall be assessed in accordance with the

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provisions of the Fourth Schedule to this Act; and in calculating the amount of any such depreciation it shall be assumed that permission would be granted under this Part of this Act for development of the land of any class specified in the Third Schedule to this Act.

21 Enforcement of planning control.

- (1) If it appears to the local planning authority that any development of land has been carried out after the appointed day without the grant of planning permission in that behalf, or that any conditions subject to which such permission was granted in respect of any development have not been complied with, then, subject to any directions given by the Secretary of State, the local planning authority may, within two years after it has come to their knowledge that such development has been so carried out or that such conditions have not been complied with, if they consider it expedient so to do having regard to the provisions of the development plan and to any other material considerations, serve on the owner, on the lessee and on the occupier of the land a notice under this section.
- (2) Any notice served under this section (hereinafter called an "enforcement notice") shall specify the development which is alleged to have been carried out without the grant of planning permission or, as the case may be, the matters in respect of which it is alleged that any such conditions as aforesaid have not been complied with, and may require such steps as may be specified in the notice to be taken within such period after the date on which the notice takes effect as may be so specified for restoring the land to its condition before the development took place, or for securing compliance with the conditions, as the case may be; and in particular any such notice may, for the purpose aforesaid, require the demolition or alteration of any buildings or works, the discontinuance of any use of land, or the carrying out on land of any building or other operations.
- (3) Subject to the provisions of the next following subsection, an enforcement notice shall take effect at the expiration of such period (not being less than twenty-eight days after the service thereof) as may be specified therein:

Provided that if within the period aforesaid an application is made to the local planning authority under this Part of this Act for permission for the retention on the land of any buildings or works, or for the continuance of any use of the land, to which the enforcement notice relates, the notice shall not take effect until the expiry of the like period after the final determination of that application, and if such permission as aforesaid is granted on that application, the notice shall not take effect.

- (4) If any person on whom an enforcement notice is served under this section is aggrieved by the notice, he may, at any time within the period specified in the notice as the period at the expiration of which the notice will take effect or, where an application has been made under the proviso to the last foregoing subsection, within the like period after the final determination of that application, appeal against the notice to the sheriff; and on any such appeal the sheriff—
 - (a) if satisfied that planning permission was granted for the development to which the notice relates, or that no such permission was required in respect thereof, or, as the case may be, that the conditions subject to which such permission was granted have been complied with, shall quash the notice to which the appeal relates;
 - (b) if not so satisfied, but satisfied that the requirements of the notice exceed what is necessary for restoring the land to its condition before the development took

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place, or for securing compliance with the conditions, as the case may be, shall vary the notice accordingly;

- (c) in any other case shall dismiss the appeal:

Provided that—

- (i) at any stage of the proceedings on such an appeal to him the sheriff may, and shall if so directed by the Court of Session, state a case for the opinion of the Court of Session on any question of law arising in connection with the appeal; and
- (ii) where the enforcement notice is varied or the appeal is dismissed, then, without prejudice to the provisions of the proviso to subsection (3) of this section, the; 'sheriff may, if he thinks fit, direct that the enforcement notice shall not come into force until such date (not being later than twenty-eight days from the determination of the appeal) as he thinks fit.

22 Supplementary provisions as to enforcement.

- (1) If within the period specified in an enforcement notice, or within such extended period as the local planning authority may allow, any steps required by the notice to be taken (other than the discontinuance of any use of land) have not been taken, the local planning authority may enter on the land and take those steps, and may recover as a civil debt from the person who is then the owner or the lessee of the land any expenses reasonably incurred by them in that behalf; and if that person, having been entitled to appeal to the sheriff under the last foregoing section, failed to make such an appeal, he shall not be entitled in proceedings under this subsection to dispute the validity of the action taken in accordance with the notice by the local planning authority.
- (2) Any expenses incurred by the owner, the lessee or the occupier of any land for the purpose of complying with an enforcement notice served under the last foregoing section in respect of any development, and any sums paid by the owner or by the lessee of any land under the foregoing subsection in respect of the expenses of the local planning authority in taking steps required to be taken by such a notice, shall be recoverable as a civil debt from the person by whom the development was carried out.
- (3) Where, by virtue of an enforcement notice, any use of land is required to be discontinued, or any conditions are required to be complied with in respect of any use of land or in respect of the carrying out of any operations thereon, then if any person, without the grant of planning permission, uses the land or causes or permits the land to be used, or carries out or causes or permits to be carried out those operations, in contravention of the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds; and if the use is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding twenty pounds for every day on which the use is so continued.
- (4) Nothing in this Part of this Act shall be construed as requiring planning permission to be obtained for the use of any land for the purpose for which it could lawfully have been used under this Part of this Act if the development in respect of which an enforcement notice is served under the last foregoing section had not been carried out.
- (5) Provision may be made by regulations under this Act for applying in relation to steps required to be taken by an enforcement notice under the last foregoing section either or both of the following provisions of the Water (Scotland) Act, 1946, that is to say—

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- (a) section fifty-seven (which limits the liability of persons holding premises as agents or trustees in respect of the expenses recoverable under Part III of that Act); and
 - (b) section sixty-eight (which confers power to require the occupier of premises to permit works to be executed by the owner of the premises);
- subject to such adaptations and modifications as may be specified in the regulations.

23 Agreements regulating development or use of land.

- (1) A local planning authority may, with the approval of the Secretary of State, enter into an agreement with any person interested in land in their area (in so far as the interest of that person enables him to bind the land) for the purpose of restricting or regulating the development or use of the land, either permanently or during such period as may be prescribed by the agreement, and any such agreement may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the local planning authority to be necessary or expedient for the purposes of the agreement.
- (2) An agreement made under this section with any person interested in land, may, if the agreement shall have been recorded in the appropriate Register of Sasines, be enforceable at the instance of the authority against persons deriving title to the land from the person with whom the agreement was entered into:

Provided that no such agreement shall at any time be enforceable against a third party who shall have in bona fide onerously acquired right (whether completed by infestment or not) to the land prior to the agreement being recorded as aforesaid or against any person deriving title from such third party.
- (3) Nothing in this section or in any agreement made thereunder shall be construed as restricting the exercise, in relation to land which is the subject of any such agreement, of any powers exercisable by any Minister or authority under this Act, so long as those powers are exercised in accordance with the provisions of the development plan or in accordance with any directions which may have been given by the Secretary of State under section thirty-three of this Act, or as requiring the exercise of any such powers otherwise than as aforesaid.